

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Lamplighter Village Apartments  
LLP et al.;

Civ. No. 21-413 (PAM/HB)

Plaintiffs,

v.

**MEMORANDUM AND ORDER**

City of St. Paul,

Defendant.

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This matter is before the Court on Plaintiffs' Motion for Attorney's Fees and to Extend Time. (Docket No. 72.) For the following reasons, the Motion is granted in part and denied without prejudice in part.

**BACKGROUND**

Plaintiffs, a group of rental property owners in the City of St. Paul, filed this action against the City challenging an ordinance granting extensive protections to tenants and governing how landlords conduct their business. Ord 20-14 § 193. Plaintiffs alleged violations of the Takings Clause and substantive due process. On April 19, 2021, the Court granted Plaintiffs' Motion for a preliminary injunction, and judgment was entered the following day. (Docket Nos. 53, 54.) The City repealed the Ordinance on June 23, 2021. (Docket No. 75 ¶ 38.) On August 25, 2021, Plaintiffs' counsel filed this Motion seeking attorney's fees. The Court granted the parties' joint Motion to Dismiss the action with prejudice on September 8, 2021. (Docket No. 83.) However, the parties did not agree on attorney's fees. (Id.)

## DISCUSSION

Federal Rule of Civil Procedure 54(d) provides that “costs—other than attorney’s fees—should be allowed to the prevailing party.” But, the award of costs is not automatic, and the Court retains significant discretion to decide whether to award costs. See Hibbs v. K–Mart Corp., 870 F.2d 435, 443 (8th Cir. 1989) (noting language of Rule 54(d) is permissive, not mandatory). Plaintiffs’ counsel moves for an award of attorney’s fees and costs under Fed. R. Civ. P. 54(d) and to extend the time for doing so under Fed. R. Civ. P. 6(b)(1)(B), which requires a motion seeking fees to be filed within 14 days of the date of the judgment.

Based on the unique facts and circumstances of this case and the Eighth Circuit’s recent opinion in Spirit Lake Tribe v. Jaeger, 5 F.4th 849 (8th Cir. 2021), the Court will grant Plaintiffs’ request to extend the time and will consider the Motion timely filed. However, Plaintiffs’ counsel’s submissions do not allow the Court to determine whether awarding fees is warranted. The billing record contains numerous redactions in the description of services and several references to a separate lawsuit challenging Minneapolis’s tenant ordinance. Moreover, counsel neglected to provide supplementary evidence supporting the reasonableness of the hourly fees sought. The Court will deny the request for fees without prejudice, and will allow Plaintiffs to file another motion for attorney’s fees, including the proper supporting documentation, if they so desire. Any such Motion must be filed within 14 days of the date of this Order.

## CONCLUSION

Accordingly, **IT IS HEREBY ORDERED** that Plaintiffs' Motion for Attorney's Fees and to Extend Time (Docket No. 72) is **GRANTED in part and DENIED without prejudice in part.**

Dated: Thursday, October 21, 2021

*s/ Paul A. Magnuson*

Paul A. Magnuson

United States District Court Judge